



May 27, 2022

Further Update on Final Distribution

Pursuant to the Order of the Honourable Mr. Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated March 21, 2019 (the “**Order**”), Miller Thomson LLP (“**Representative Counsel**”) was appointed to represent all individuals and/or entities (“**Investors**”) that hold an interest in a syndicated mortgage, administered by Hi-Rise Capital Ltd., in respect of the property municipally known as 263 Adelaide Street West, Toronto, Ontario, owned by Adelaide Street Lofts Inc. and the proposed development known as the “Adelaide Street Lofts”, in connection with the negotiation and implementation of a settlement with respect to such investments. A copy of the Order can be found on the ‘Documents’ section of Representative Counsel’s website (the “**Website**”), available at <https://www.millerthomson.com/en/hi-rise>.

Representative Counsel writes this update further to its communication dated May 19, 2022 (Update and Final Distribution) (the “**Last Update**”), a copy of which is posted on the Website, and to provide Investors with the following update.

Overview & Purpose of this Communication

1. Since delivering the Final Distribution notices and cheques to Remaining Investors and since delivering the Last Update, we have received many inquiries from Investors regarding the amount they received as a Final Distribution and the total percentage of their recovery.
2. In particular, certain Investors have attempted to launch objections to their Final Distribution amount/Distribution amounts, and have requested that Representative Counsel review and revise their recovery amounts.
3. **For the reasons set out below, and as specifically ordered by the Court, all Distribution amounts are FINAL and are NOT open to any Objection by Investors.**
4. Accordingly, Representative Counsel **WILL NOT** be reviewing Distribution amounts, and will not be issuing any amendments to the Distributions delivered to Investors in this proceeding.
5. Please be advised all Distribution funds have been delivered from Trust to the Investors, and **there are no further Distribution funds in hand to be delivered in this proceeding.**
6. Copies of all Orders and Court Reports referred to below are set out in the ‘Documents’ section of the Website. Please refer to these Orders and Court Reports in conjunction with reading this communication.

Distribution Plan and Expiry of Objection Period

7. Each Investor's recovery details were set out in their Investor Claim Notices, which were delivered to Investors in February 2021.
8. The Investor Claim Notices were delivered pursuant to the Distribution Plan (the "**Distribution Plan**") approved by Order of Justice Hailey dated November 23, 2020 (the "**Distribution Plan Order**").
9. The Investor Claim Notices provided the following information to each Investor: (a) the Investor's classification as either a Registered Investor or Non-Registered Investor; (b) the initial principal amount of the Investor's investment; (c) the Investor's total claim amount; (d) the Investor's recovery percentage; and (e) the Investor's payment amount.
10. **Importantly**, the Investor Claim Notice and the court-ordered Distribution Plan provided that, **each Investor had 14 days from the date set out in the Investor Claim Notice to object to** the amount, classification and other information in the Investor Claim Notice (the "**Objection Period**"), **failing which the Investor shall be deemed to have accepted such information contained therein as correct and to have waived any further right to object.**
11. **The 14-day Objection Period has expired** (and has been expired for approximately 1 year and 3 months, since the Investor Claim Notices were delivered in February 2021).
12. **All Investors that did not object to the contents of their Investor Claim Notice in 2021 are now deemed to have accepted the information contained therein, and they have waived any further right to raise an Objection.**

Distributions Issued to Investors are Final

13. Through Representative Counsel's Court Reports and through Notices delivered to Investors, Non-Registered Investors in this proceeding have had full advance notice of their estimated recovery on their investments since as early as Spring 2021. The details of same are set out in this section.

Initial Distribution

14. Pursuant to the Order of Justice Hailey dated March 17, 2021 (the "**Initial Distribution Order**"), Representative Counsel was authorized to deliver an Initial Distribution Amount up to \$41,010,039.27 to Investors in this proceeding.
15. The basis for this Initial Distribution Amount was set out to Investors and to the Court in Representative Counsel's Supplementary Seventh Report dated March 16, 2021 (the "**Initial Distribution Summary**"). The Initial Distribution Summary provided all Non-Registered Investors with their estimated Initial Distribution recovery percentage. A copy of this Initial Distribution Summary is reproduced here, the relevant portions of which are highlighted:



Purchase Price	69,000,000.00
Less: Municipal Tax Arrears ¹	(914,793.40)
Less: Closing Adjustments	(68,801.94)
Less: Meridian Mortgage	(16,751,924.01)
Less: 263 Holdings Settlement Amount	(3,724,000.00)
Less: Lanterra Interest Loan and Forbearance Fee Payment	(1,465,814.38)
Funds Received By Miller Thomson In Trust	\$46,074,666.27
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Less: BMO Commission	(649,000.00)
Less: Professional Fees to Date	
Representative Counsel	(928,112.74)
Counsel to Hi-Rise	(287,801.42)
Information Officer	(115,513.76)
Counsel to the Information Officer	(26,199.08)
Total Professional Fees to Date	(\$1,357,627.00)
Less: General Reserve	(1,100,000.00)
Less: Reserve for Potential Objecting Claims	(1,958,000.00)
Interim Distribution Amount	\$41,010,039.27
Less: Amounts Owing to Registered Investors (Per Revised Claim Index)	(23,762,243.67)
Interim Distribution Amount for Non-Registered Investors	\$17,247,795.60
Total Amounts Owing to Non-Registered Investors (Per Revised Claim Index)	\$49,932,965.76
Principal Amounts Owing to Non-Registered Investors (Per Revised Claim Index)	\$34,912,518.82
<i>Estimated Non-Registered Investor Initial Distribution Recovery (%)</i>	34.54%
<i>Estimated Non-Registered Investor Initial Distribution Recovery on Principal (%)</i>	49.40%

16. In connection with the Initial Distribution cheque delivered to each Investor in April 2021, we also delivered an Initial Distribution Notice which provided the following information to each Investor: (a) the Investor's principal investment amount; (b) accrued interest; (c) the total Investor Claim Amount; (d) the Initial Distribution recovery percentage (being 34.54%, as noted in the Initial Distribution Summary above), and (e) the Initial Distribution Amount.
17. **Importantly**, the Initial Distribution Order provided as follows regarding Objections:

7. **THIS COURT ORDERS** that, unless otherwise authorized by this Court, any Investor who does not file an Objection Notice with Representative Counsel during the Objection Period (as such terms are defined in the form of Investor Payment Notice attached as Schedule "B" hereto) shall be deemed to have: (i) accepted the Investor Claim Amount and the Investor Payment Amount set out in his or her Investor Payment Notice, and (ii) waived any further objection to the Investor Claim Amount and the Investor Payment Amount set out in his or her Investor Payment Notice or any further distribution amounts under the Distribution Plan.



Final Distribution

18. Pursuant to the Order of Justice McEwen dated April 28, 2022 (the “**Final Distribution Order**”), Representative Counsel was authorized to deliver a Final Distribution Amount of \$1,408,287.84 to the Remaining Investors in this proceeding.
19. The basis for this Final Distribution Amount was set out to Investors and to the Court in Representative Counsel’s Ninth Report dated March 29, 2022 (the “**Final Distribution Summary**”).
20. The Final Distribution Summary provided participating Non-Registered Investors with their Initial Distribution recovery, their estimated Final Distribution recovery, as well as their estimated total recovery percentage. A copy of this Final Distribution Summary is reproduced here, the relevant portions of which are highlighted:

Purchase Price	69,000,000.00
Less: Tax Arrears	(914,793.40)
Less: Closing Adjustments	(68,801.94)
Less: Meridian Mortgage	(16,751,924.01)
Less: 263 Holdings Settlement Amount	(3,724,000.00)
Less: Lanterra Interest Loan and Forbearance Fee Payment	<u>(1,465,814.38)</u>
Funds Received By Miller Thomson In Trust	\$46,074,666.27
Funds Received By Miller Thomson In Trust	\$46,074,666.27
Less: BMO Commission	(649,000.00)
Less: Professional Fees to Date	
Representative Counsel	(1,578,644.07)
Counsel to Hi-Rise	(298,548.30)
Information Officer	(115,513.76)
Counsel to the Information Officer	(26,199.08)
Distribution Agent	(181,403.15)
Cost Award	(42,313.64)
Other Costs	<u>(7,780.35)</u>
	(2,250,402.35)
Less: Amounts Owning to Registered Investors (Per Revised Claim Index)	(23,762,243.67)
Less: Initial Distribution to Non-Registered Investors, excluding the Missing Investor	(17,234,792.45)
Less: Payments to Settled Investors	<u>(644,858.70)</u>
Final Remaining Funds	\$1,533,369.10
Less: Final Reserve	(112,000.00)
Less: Missing Investor Settlement Funds / Honorarium	<u>(13,081.26)</u>
Final Distribution Amount	\$1,408,287.84
Total Non-Registered Investor Claims	49,932,965.76
Less: Missing Investor and Settled Investors Claims	<u>(2,077,894.82)</u>
Remaining Investors' Investor Claim Amount	\$47,855,070.94
<i>Initial Distribution Percentage</i>	34.54%
Initial Distribution Amount for Remaining Investors	\$16,529,141.16
<i>Final Distribution Percentage</i>	2.94%
Final Distribution Amount	\$1,408,287.84
<i>Estimated Remaining Investor Total Recovery %</i>	37.48%

21. In connection with the Final Distribution cheque delivered to each Investor in May 2022, we also delivered a court-approved Final Distribution Notice which provided the following information to each Investor: (a) details of your Investor Claim Amount



previously delivered to you under the Distribution Plan; (b) details of the Initial Distribution already received by you; (c) the details of your Final Distribution delivered to you; and (d) a summary of the total Distribution received by you in this proceeding.

22. **Importantly**, the court-approved Final Distribution Notice set out the following two notices:

This Final Distribution represents the FINAL and LAST Distribution that you will receive in these proceedings, in full and final satisfaction of your claim(s).

In light of the terms of the Distribution Plan, all of the amounts contained above, including your Final Distribution, are final and are not open to any objection.

23. **Further and most importantly**, the Final Distribution Order specifically prohibits and extinguishes all further Objections from Investors. Specifically, provision 10 of the Final Distribution Order provides as follows:

10. **THIS COURT ORDERS AND DECLARES** that any Investor who has not filed a Notice of Objection with Representative Counsel is deemed to have: (a) accepted the Investor Claim Amount, classification and other information set out in his or her Investor Payment Notice; and (b) waived any further objection to the Investor Claim Amount, classification and other information set out in his or her Investor Payment Notice. For greater certainty, it is not open to any Investor or Opt-Out Investor to object to their Investor Claim Amount, classification and other information set out in his or her Investor Payment Notice, and any and all further objections are forever barred and permanently extinguished.

Conclusion & Independent Legal Counsel Required

For all of the reasons set out above, there is nothing further for you to do in this proceeding. **ALL DISTRIBUTIONS DELIVERED TO INVESTORS IN THIS PROCEEDING ARE FULL AND FINAL, AND ARE NOT OPEN TO ANY OBJECTION, REVIEW OR REVISION.**

As court-ordered, it is not open to you to object to your Final Distribution amount or any other Distribution received in this proceeding. Most importantly, there are no funds in hand to issue additional Distributions to any Investor in this proceeding.

Representative Counsel has received countless telephone calls and emails to our personal emails and telephone numbers since delivering the Final Distribution. Representative Counsel **WILL NOT** be providing individual responses to Investors making inquiries in this regard. As court-ordered, Representative Counsel **WILL NOT** be accepting any Objections from Investors or requests to review Distribution amounts and/or issue further funds.

To the extent we continue to receive individual inquiries from Investors in this regard, we will be directing all Investors to this communication, as a full and complete response.

Should you wish to continue to pursue any matter related to your Distribution, please be advised that there is nothing Representative Counsel can independently do at this



point. We strongly recommend that you seek independent legal advice on any matter related to your Distribution, including any relief you may wish to seek. We also recommend you provide your counsel with a copy of this communication.

Address Change Procedure

24. Representative Counsel has previously requested that any Investor who has changed his or her address immediately notify Representative Counsel.
25. If you have moved and your address has changed since you made your investment, please notify Representative Counsel immediately by following the Court-approved Address Change Procedure and:
 - (a) Email Representative Counsel at HiRiseCapital@millerthomson.com to advise of your new address; and
 - (b) Provide proof of your new address. For example, you may email a copy of a utility bill (or any similar mailed document) with your name and new address on it.

IMPORTANT Note to Investors Regarding Communications & Investor Inquiries

Representative Counsel continues to receive inquiries that have been addressed in our Communications. The Communications we deliver to Investors are intended to provide Investors with updates on new developments and new information. Accordingly, Representative Counsel will not be repeating the same information in each of its Communications. Please consult the Website and the Communications, as it is likely that the information you are seeking has already been provided to Investors by Representative Counsel. To the extent you require further information or clarification after you have reviewed the Website and previous Communications, please feel free to contact Representative Counsel.

Representative Counsel continues to receive inquiries directly to this email, as well as to the personal emails and telephone numbers of the lawyers involved. As set out in previous communications and in order to ensure that all inquiries are managed efficiently and cost-effectively, please do not email Representative Counsel's individual lawyers directly. **As a reminder, Representative Counsel will not be communicating with Investors through their personal emails.**

In order to manage the volume of inquiries and to effectively respond, Investors should submit inquiries to Representative Counsel through the dedicated email account at HiRiseCapital@millerthomson.com. Representative Counsel reviews all emails received through this email address on a daily basis, and will respond to **new** inquiries through further communications to Investors (which will be emailed to all Investors and posted on the Website).



It is crucial at this time that all Investors respect this request. Thank you all for your patience.

Yours Truly,

Miller Thomson LLP,
solely in its capacity as
Representative Counsel

